

DATE: JUNE 9, 2005

TO: INTERESTED PARTIES

**RE: ANACORTES MULTIMODAL TERMINAL
GC/CM PROJECT NO. XL 1714**

ADDENDUM NO. 2

This is to inform you of the following updates and changes to the Request for Proposals (RFP) for the above-referenced project:

FINAL PROPOSAL REQUIREMENTS

Attached hereto and incorporated herein are revisions to the RFP Division 0 – Bidding Requirements, Contract Forms and Conditions of the Contract document.

All other terms and conditions remain unchanged. All qualified proposers will be required to acknowledge receipt of all RFP Addenda in their proposal. All Addenda will become a part of the RFP.

Sincerely,

Tim McGuigan
Director of Legal Services & Contracts

Attachment

**ATTACHMENT
TO ADDENDUM NO. 2**

**DIVISION 0
BIDDING REQUIREMENTS, CONTRACT FORMS
AND CONDITIONS OF THE CONTRACT**

(previously issued to proposers on short list)

**Section 00100
REQUEST FOR FINAL PROPOSALS FOR GC/CM SERVICES**

**SUBMISSIONS AND WITHDRAWAL OF BIDS
Section 7**

Page 2. Delete the entire text in Section 7.1 and replace with the following new text:

- 7.1** “Proposals and proposal modifications shall be submitted in sealed envelopes or packages up to 11:00 am on June 16, 2005 at the Washington State Ferries Terminal Engineering, 2911 Second Avenue, Seattle, WA 98121, Attention: Jim McPherson, Project Manager. Such proposals shall be (1) addressed to Washington State Ferries and (2) show the project title, bid opening date and time, and the name and address of the proposer.”

**MWBE GOALS
Section 9**

Page 3. Delete the entire text in Section 9 and replace with the following new text:

“The Owner has established voluntary goals for MWBE participation in this project. These goals are 10% for MBE participation and 6% for WBE participation. **These goals are voluntary. No preference will be included in the evaluation of bids/proposals, no minimum level of MWBE participation shall be required as a condition of award or completion of the contract work, and bids/proposals will not be rejected or considered non responsive on that basis.** Please refer to Modifications to General Conditions 10.11 MWBE participation.”

AGREEMENT FOR PRECONSTRUCTION SERVICES AND GC/CM CONTRACT EXECUTION

Section 11

Delete the entire text in Section 11 and replace with the following new text:

“The Contractor with the highest scoring proposal will be asked to submit a Preconstruction Work Plan per Article 3 of the GC/CM Contract. Subject to approval of the Work Plan by the Owner, the Contractor shall immediately execute an Agreement for Preconstruction Services attached to this Request for Final Proposal which shall be solely for the performance and payment of preconstruction services. Failure to submit a Preconstruction Work Plan that is approved by the Owner within fourteen (14) calendar days of the Contractor’s selection will render Contractor’s proposal nonresponsive. At the time a MACC is successfully negotiated the parties will sign the GC/CM Contract and incorporate all of the Agreement for Preconstruction Services, thereby merging the two agreements.

Should the Contractor and Owner not agree on a MACC the Owner may cancel the negotiations and begin negotiations with the next highest ranked firm/team. Should the Owner choose to cancel the negotiations upon failure to achieve a MACC, such cancellation will be effective upon Contractor’s receipt of written notification to the Contractor. Contractor shall not be reimbursed for the MACC negotiations, however, the Contractor will be paid in accordance with the Agreement for Preconstruction Services, for any preconstruction work performed prior to the date the MACC negotiations are cancelled.”

FINAL SELECTION PROTEST PROCEDURES

Section 12

Add a new Section 12 to read as follows:

“All protests regarding any contents or portion of this RFP must be submitted to WSF as soon as possible after the proposer/protestant becomes aware of the reason(s) for the protest. All protests prior to final selection must be received by WSF no event later than 3:00 p.m. on the second business day after the final proposal due date. All protests after final selection must be received no later than 3:00 p.m. on the second business day after receipt of a Non-Selection Notice. All protests must be in writing and signed by the proposer / protestant or an authorized agent. Such writing must state all facts and arguments on which the proposer / protestant is relying as the basis for its action. Such proposer / protestant shall also attach, or supply on demand by WSF, any relevant exhibits referenced in the writing. Copies of all protests and exhibits shall be mailed or delivered by the proposer / protestant to the proposer against whom the protest is made (if any) at the same time such protest and exhibits are submitted to WSF. All protests shall be directed to:

Washington State Ferries
2911 2nd Avenue
Seattle, Washington 98121-1012
Attn.: Mr. Tim McGuigan, Director of Legal Services and Contracts
Phone: (206) 515-3601 Fax: (206) 515-3605 "

Section 00200
FINAL PROPOSAL FORM

MWBE PARTICIPATION

Page 2. Delete the entire text in Section MWBE PARTICIPATION and replace with the following new text:

"In submitting this Proposal, the undersigned acknowledges that Owner has established a voluntary MWBE participation goals of 10% MBE and 6% WBE. These goals are voluntary. No preference will be included in the evaluation of bids/proposals, no minimum level of MWBE participation shall be required as a condition of award or completion of the contract work, and bids/proposals will not be rejected or considered non responsive on that basis."

Section 00300
GENERAL CONTRACTOR/CONSTRUCTION MANAGER CONTRACT

PROJECT

Page 1. Revise the last sentence in the first section titled "PROJECT" to read as follows:

"This contract incorporates all terms and conditions of the Agreement for Preconstruction Services."

DEFINITIONS

Article 1

Page 1. Delete the entire text in Article 1.3 General Contractor/Construction Manager and replace with the following new text:

"1.3 General Contractor/Construction Manager. General Contractor/Construction Manager or GC/CM means the Contractor that has agreed with the Owner to perform Work pursuant to RCW 39.10.061 and as described in the Contract Documents."

WORK OF THIS CONTRACT

Article 3

Page 2. On the tenth line in Section 3.1, General, revise the term: “RCW 39.10.060” to read “RCW 39.10.061”.

RELATIONSHIP OF THE PARTIES

Article 4

Page 6. Delete the entire text in Article 4.24 and replace with the following new text:

“4.2.4 The Owner will be responsible for providing the facilities for the workshop, as well as a facilitator and any workshop materials. The Contractor is expected to provide Project personnel for the workshop at no additional cost to the Owner.”

GUARANTEED CONSTRUCTION COST

Article 6

Page 9. In Article 6.6.1, revise the term: “Form of Proposal” to read “Final Proposal Form”.

Page 9. In Article 6.6.2, revise the term: “Form of Proposal” to read “Final Proposal Form”.

Page 9. In Article 6.6.2, revise the term: “...items so marked in Contractor's Fee, Specified General Conditions Work, Reimbursables Work Matrix, attached hereto as Attachment No. 1...” to read “...items so marked in Attachment No. 1 entitled ‘Contractor's Fee, Specified General Conditions Work, and Reimbursables’...”.

SUBCONTRACTING

Article 7

Page 12. In Article 7.2, revise the amount: “twenty percent” to read “thirty (30) percent”.

Section 00700

GENERAL CONDITIONS FOR WASHINGTON STATE TERMINAL FACILITY CONSTRUCTION

PART 2 - INSURANCE AND BONDS

Delete the entire text in 2.01.A.1 and replace with the following new text:

“1. General liability on the most current ISO New Occurrence Form “Commercial General Liability Coverage Form (CG 00 01 12 04)” or its equivalent which will include:

- a. Completed operations/products liability;
- b. Explosion, collapse, and underground; and
- c. Employer's liability coverage.”

PART 5 - PERFORMANCE

In 5.06A, revise the terms “RCW 49.60, and Gubernatorial Executive Order 85-09” to read “RCW 49.60, and any applicable Gubernatorial Executive Orders.”

PART 7 - CHANGES

In 7.02.B.7c (1), revise the term “Associated General Contractors - Washington State Department of Transportation (AGC WSDOT) Equipment Rental Agreement; 1987 edition” to read “Associated General Contractors - Washington State Department of Transportation (AGC WSDOT) Equipment Rental Agreement; current edition.”

Also, revise the last paragraph to read as follows:

“The Data Quest Rental Rate (Blue Book) shall be used as a basis for establishing rental rates of equipment not listed in the above sources. The maximum rate for standby equipment shall not exceed that shown in the AGC WSDOT Equipment Rental Agreement; current edition.”

Revise 7.02.B.7g (1) to read as follows:

“For Contractor or Subcontractor of any tier for work performed by their forces, 6% of the cost developed in accordance with 7.02 B. 7a.- e. above.”

Revise 7.02.B.7g (2) to read as follows:

“For Contractor or Subcontractor of any tier for work performed by a subcontractor of a lower tier, 4% of the Subcontractor cost developed in accordance with 7.02 B. 7a.-h.”

Section 00710

GC/CM MODIFICATIONS TO THE GENERAL CONDITIONS

Part 10 Add a new Section

10.11 Voluntary MWBE Goal Instructions

A. General Statement

In accordance with the legislative findings and policies set forth in Chapter 39.19 RCW, Washington State Ferries (WSF) encourages participation in all of its Contracts by MWBE firms certified by the office of Minority and Women’s Business Enterprises (OMWBE). Participation may be either on a direct basis in response to a solicitation/invitation, or as a subcontractor to a Bidder/Proposer. **No preference will be included in the evaluation of bids/proposals, no minimum level of MWBE participation shall be required as a condition for receiving an award, and bids/proposals will not be rejected or considered non-responsive on that basis.**

B. Voluntary MWBE Goals

Voluntary numerical MWBE participation goals shall be established for all solicitation / invitations where applicable. These goals are voluntary, but achievement of the goals is encouraged. To determine if there is a voluntary numerical MWBE participation goal established for this Contract, please refer to Section F below. WSF encourages MWBE participation, and bidders may contact OMWBE at 360-753-9693 to obtain information on certified firms.

C. Affirmative Efforts To Increase Participation By MWBEs Voluntary Efforts

Bidders/Proposers/Contractors are encouraged to:

1. Advertise opportunities for subcontractors or suppliers in a manner reasonably designed to provide MWBEs capable of performing the work with timely notice of such opportunities and all advertisements should include a provision encouraging participation by MWBE firms. Advertising may be done through general advertisements (e.g., newspapers, journals, etc.) or by soliciting bids/proposals directly from MWBEs.

2. Provide MWBEs that express interest with adequate and timely information about plans, specifications, and requirements of the Contract. Break down total requirements into smaller tasks or quantities, where economically feasible, in order to permit maximum opportunity for participation by MWBEs and other small businesses.
3. Utilize the services of available minority community organizations, minority Contractor groups, local minority assistance offices and organizations that provide assistance in the recruitment and placement of MWBEs and other small businesses.
4. Establish delivery schedules, where requirements of the Contract permit, that encourage participation by MWBEs and other small businesses.

The actions described in this section should supplement efforts to provide information to all qualified firms, and nothing in this section is intended to prevent or discourage the Bidders/Proposers/Contractors from inviting proposals for participation from non-MWBE firms as well as MWBE firms.

Non-discrimination

Contractors, Bidders, and Proposers shall not create barriers to open and fair opportunities for all businesses, including MWBEs, to participate in all WSF Contracts and to obtain or compete for Contracts and subcontracts as sources of supplies, equipment, construction and services. In considering offers from and doing business with subcontractors and suppliers, the Contractor shall not discriminate on the basis of race, color, creed, religion, national origin, sex, age, nationality, marital status, or the presence of any mental or physical disability in an otherwise qualified disabled person.

The Contractor shall make the MWBE Participation General Statement cited previously in this provision a part of all subcontracts and agreements entered into as a result of this Contract.

D. Definitions

When referred to in this Contract, the terms Minority, Minority Business Enterprise (MBE), and Women's Business Enterprise (WBE) will be construed to have the following meanings:

1. Minority means a person who is a citizen or lawful permanent resident of the United States and who is:

- a) Black: having origins in any of the black racial groups of Africa;
 - b) Hispanic: of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;
 - c) Asian American and Pacific Islanders: having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands; or
 - d) American Indian or Alaskan Native: having origins in any of the original peoples of North America.
2. Minority Business Enterprise, Minority-owned Business Enterprise, or MBE means a business organized for profit, performing a commercially useful function, which is owned and controlled by one or more minority individuals or minority business enterprises. Owned and controlled means a business in which one (1) or more minorities or MBE's own at least fifty-one percent (51%), or in the case of a corporation at least fifty-one percent (51%) of the voting stock, and control at least fifty-one percent (51%) of the management and daily business operations of the business.
3. MWBE means a minority-owned business enterprise, a women-owned business enterprise, and/or a combination minority and women's business enterprise certified by the Office of Minority and Women's Business Enterprises (OMWBE) of the State of Washington.
4. Women's Business Enterprise, Women-owned Business Enterprise, or WBE means a business organized for profit, performing a commercially useful function, which is owned and controlled by one or more women or women's business enterprises. Owned and controlled means a business in which one or more women or WBE's own at least fifty-one percent (51%) or in the case of a corporation at least fifty-one percent (51%) of the voting stock, and control at least fifty-one percent (51%) of the management and daily business operations of the business. The women owners must be United States citizens or lawful permanent residents.
5. Minority/Women's Business Enterprise means a minority-owned business enterprise, a women-owned business enterprise; and/or a combination minority and women's business enterprise certified by the OMWBE of the State of Washington.

E. MBE / WBE Status

A consolidated list of firms accepted as certified by OMWBE is available via the WSDOT Home Page, (WWW.WSDOT.WA.GOV), and a hard copy is available at nominal cost from the OMWBE.

If further information is desired concerning Minority Business Enterprise/Women's Business Enterprise participation, inquiry may be directed to:

External Civil Rights Branch
Office of Equal Opportunity
Washington State Department of Transportation
Transportation Bldg., P.O. Box 47314
Olympia, WA 98504-7314

Phone: (360) 705-7085

Fax: (360) 705-6801

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